

**PENALTIES FOR DESTRUCTION OF BALD
EAGLE**

2009 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill modifies protected wildlife and minimum restitution values for certain wildlife.

Highlighted Provisions:

This bill:

- ▶ establishes the value of a bald eagle for the purpose of determining the penalty for the wanton destruction of a bald eagle; and
- ▶ establishes the suggested minimum restitution value for a bald eagle.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23-20-4, as last amended by Laws of Utah 2004, Chapter 276

23-20-4.5, as last amended by Laws of Utah 2004, Chapter 119

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **23-20-4** is amended to read:

23-20-4. Wanton destruction of protected wildlife -- Penalties.

(1) A person is guilty of wanton destruction of protected wildlife if that person:

- (a) commits an act in violation of Section 23-13-4, 23-13-5, 23-13-13, 23-15-6 through 23-15-9, 23-16-5, or Subsection 23-20-3(1);
- (b) captures, injures, or destroys protected wildlife; and
- (c) (i) does so with intentional, knowing, or reckless conduct as defined in Section

32 76-2-103;

33 (ii) intentionally abandons protected wildlife or a carcass;

34 (iii) commits the offense at night with the use of a weapon;

35 (iv) is under a court or division revocation of a license, tag, permit, or certificate of

36 registration; or

37 (v) acts for pecuniary gain.

38 (2) Subsection (1) does not apply to actions taken ~~[which are]~~ in accordance with ~~[the~~

39 ~~following]~~:

40 (a) Title 4, Chapter 14, Utah Pesticide Control Act;

41 (b) Title 4, Chapter 23, Agriculture and Wildlife Damage Prevention Act; or

42 (c) Section 23-16-3.1.

43 (3) Wanton destruction of wildlife is punishable:

44 (a) as a third degree felony if:

45 (i) the aggregate value of the protected wildlife determined by the values in Subsection

46 (4) is more than \$500; or

47 (ii) a trophy animal was captured, injured, or destroyed;

48 (b) as a class A misdemeanor if the aggregate value of the protected wildlife, ~~[other~~

49 ~~than any trophy animal,]~~ determined by the values established in Subsection (4) is more than

50 \$250, but does not exceed \$500; and

51 (c) as a class B misdemeanor if the aggregate value of the protected wildlife

52 determined by the values established in Subsection (4) is \$250 or less.

53 (4) Regardless of the restitution amounts imposed under Subsection 23-20-4.5(2), the

54 following values are assigned to protected wildlife for the purpose of determining the offense

55 for wanton destruction of wildlife:

56 (a) \$1,000 per animal for:

57 (i) bison;

58 (ii) bighorn sheep;

59 (iii) rocky mountain goat;

60 (iv) moose;

61 (v) bear;

62 (vi) peregrine falcon; ~~[or]~~

- 63 (vii) bald eagle; or
64 [~~(vii)~~] (viii) endangered species;
65 (b) \$750 per animal for:
66 (i) elk; or
67 (ii) threatened species;
68 (c) \$500 per animal for:
69 (i) cougar;
70 (ii) golden eagle;
71 (iii) river otter; or
72 (iv) gila monster;
73 (d) \$400 per animal for:
74 (i) pronghorn antelope; or
75 (ii) deer;
76 (e) \$350 per animal for bobcat;
77 (f) \$100 per animal for:
78 (i) swan;
79 (ii) sandhill crane;
80 (iii) turkey;
81 (iv) pelican;
82 (v) loon;
83 (vi) egrets;
84 (vii) herons;
85 (viii) raptors, except those that are threatened or endangered;
86 (ix) Utah milk snake; or
87 (x) Utah mountain king snake;
88 (g) \$35 per animal for furbearers, except:
89 (i) bobcat;
90 (ii) river otter; and
91 (iii) threatened or endangered species;
92 (h) \$25 per animal for trout, char, salmon, grayling, tiger muskellunge, walleye,
93 largemouth bass, smallmouth bass, and wiper;

(i) \$15 per animal for game birds, except:

(i) turkey;

(ii) swan; and

(iii) sandhill crane;

(j) \$10 per animal for game fish not listed in Subsection (4)(h);

(k) \$8 per pound dry weight of processed brine shrimp including eggs; and

(l) \$5 per animal for protected wildlife not listed.

(5) For purposes of sentencing for a wildlife violation, a person who has been convicted of a third degree felony under Subsection (3)(a) is not subject to the mandatory sentencing requirements prescribed in Subsection 76-3-203.8(4).

(6) As part of ~~[any]~~ a sentence imposed, the court shall impose a sentence of incarceration of not less than 20 consecutive days for ~~[any]~~ a person convicted of a third degree felony under Subsection (3)(a)(ii) who captured, injured, or destroyed a trophy animal for pecuniary gain.

(7) If a person has already been convicted of a third degree felony under Subsection (3)(a)(ii) once, each separate ~~[further]~~ additional offense under Subsection (3)(a)(ii) is punishable by, as part of ~~[any]~~ a sentence imposed, a sentence of incarceration of not less than 20 consecutive days.

(8) The court may not sentence a person subject to Subsection (6) or (7) to less than 20 consecutive days of incarceration or suspend the imposition of the sentence unless the court finds mitigating circumstances justifying lesser punishment and makes that finding a part of the court record.

Section 2. Section **23-20-4.5** is amended to read:

23-20-4.5. Illegal taking, possession, or wanton destruction of protected wildlife -- Restitution -- Reimbursable damages -- Assessment by magistrates -- Disposition of monies.

(1) When a person is adjudged guilty of illegal taking, illegal possession, or wanton destruction of protected wildlife, other than ~~[any]~~ a trophy animal, the court may order the defendant to pay restitution:

(a) as set forth in Subsection (2)~~];~~ or

(b) a greater or lesser amount~~[, for the value of each animal taken, possessed, or~~

125 ~~destroyed, unless the court finds that restitution is inappropriate]~~ than the amount established in
126 Subsection (2).

127 (2) Suggested minimum restitution values for protected wildlife are as follows:

128 (a) \$1,000 per animal for:

129 (i) bison;

130 (ii) bighorn sheep;

131 (iii) rocky mountain goat;

132 (iv) moose;

133 (v) bear;

134 (vi) peregrine falcon; [~~or~~]

135 (vii) bald eagle; or

136 [~~(vii)~~] (viii) endangered species;

137 (b) \$750 per animal for:

138 (i) elk; or

139 (ii) threatened species;

140 (c) \$500 per animal for:

141 (i) golden eagle;

142 (ii) river otter; or

143 (iii) gila monster;

144 (d) \$400 per animal for:

145 (i) pronghorn antelope; or

146 (ii) deer;

147 (e) \$350 per animal for:

148 (i) cougar; or

149 (ii) bobcat;

150 (f) \$100 per animal for:

151 (i) swan;

152 (ii) sandhill crane;

153 (iii) turkey;

154 (iv) pelican;

155 (v) loon;

- 156 (vi) egrets;
- 157 (vii) herons;
- 158 (viii) raptors, except those that are threatened or endangered;
- 159 (ix) Utah milk snake; or
- 160 (x) Utah mountain king snake;
- 161 (g) \$35 per animal for furbearers, except:
- 162 (i) bobcat;
- 163 (ii) river otter; and
- 164 (iii) threatened or endangered species;
- 165 (h) \$25 per animal for trout, char, salmon, grayling, tiger muskellunge, walleye,
- 166 largemouth bass, smallmouth bass, and wiper;
- 167 (i) \$15 per animal for game birds, except:
- 168 (i) turkey;
- 169 (ii) swan; and
- 170 (iii) sandhill crane;
- 171 (j) \$10 per animal for game fish not listed in Subsection (2)(h);
- 172 (k) \$8 per pound dry weight of processed brine shrimp including eggs; and
- 173 (l) \$5 per animal for protected wildlife not listed.
- 174 (3) If the court finds that restitution is inappropriate or if the value imposed is less than
- 175 the suggested minimum value as provided in Subsection (2), the court shall make the reasons
- 176 for the decision part of the court record.
- 177 (4) (a) The court shall order ~~[any]~~ a person convicted of a third degree felony under
- 178 Subsection 23-20-4(3)(a)(ii) to pay restitution in accordance with Subsection (4)(b).
- 179 ~~[Minimum]~~
- 180 (b) The minimum restitution ~~[values]~~ value for a trophy ~~[animals are]~~ animal is as
- 181 follows:
- 182 ~~[(a)]~~ (i) \$30,000 per animal for bighorn, desert, or rocky mountain sheep;
- 183 ~~[(b)]~~ (ii) \$8,000 per animal for deer;
- 184 ~~[(c)]~~ (iii) \$8,000 per animal for elk;
- 185 ~~[(d)]~~ (iv) \$6,000 per animal for moose or mountain goat;
- 186 ~~[(e)]~~ (v) \$6,000 per animal for bison; and

187 ~~[(f)]~~ (vi) \$2,000 per animal for pronghorn antelope.

188 (5) ~~[Any restitution]~~ Restitution paid under Subsection (4) shall be remitted to the
189 division and deposited in the Wildlife Resources Account.

190 (6) Restitution monies shall be used by the division for activities and programs to help
191 stop poaching, including:

192 (a) educational programs on wildlife crime prevention;

193 (b) acquisition and development of wildlife crime detection equipment;

194 (c) operation and maintenance of anti-poaching projects; and

195 (d) wildlife law enforcement training.

196 (7) If restitution is required it shall be in addition to:

197 (a) ~~[any other]~~ a fine or penalty imposed for a violation of any provision of this title;

198 and

199 (b) ~~[any]~~ a remedial action taken to revoke or suspend a person's license, permit, tag, or
200 certificate of registration.

201 (8) A judgment imposed under this section constitutes a lien when recorded in the
202 judgment docket and shall have the same effect and is subject to the same rules as a judgment
203 for money in a civil action.

Legislative Review Note
as of 9-19-08 9:07 AM

Office of Legislative Research and General Counsel